

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
2. The information disclosure statement (IDS) submitted on 12/20/2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Objections

3. Claims 5-22 are objected to because of the following informalities: recites "a panel for use in a system of panels". Whereas the preamble of claim 1 recites "a system of panels for suspended ceilings or the like". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-22 recites the limitation "the rows" in line 9 of the claim. There is insufficient antecedent basis for this limitation in the claim. The applicant does not positively recite a plurality of rows.

6. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

7. Applicant asserts that the claim elements "holder means", and "mating means" is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, it is unclear whether the claim element is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph, because the terms have not been implicitly defined in the written description, therefore the claims would be examined as best understood. If applicant wishes to have the claim limitation treated under 35 U.S.C. 112, sixth paragraph, applicant is required to:

(a) Amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines: the phrase "means for" or "step for" must be modified by functional language and the phrase must **not** be modified by sufficient structure, material, or acts for performing the claimed function; or

(b) Show that the claim limitation is written as a function to be performed and the claim does **not** recite sufficient structure, material, or acts for performing the claimed function which would preclude application of 35 U.S.C. 112, sixth paragraph. For more information, see MPEP § 2181.

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8. Regarding claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

9. Claim 1 recites the limitation "mating means" twice. It is unclear if the applicant is attempting to introduce a second "mating means". The claims are examined as best understood.

10. Claims 5-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 5 recites the limitation "holder means". It is unclear if the applicant is referring to the holder means as recited in claim 1 as being apart of the suspension and guide system or intended to recite it the mating means of the panel. The claims are examined as best understood.

12. Claim 5 recites the limitation "the system" in the last line of the claim. It is unclear as to what system the applicant is referring to. Claims are examined as best understood.

13. Claim 11 recites the limitation "said sheet". There is insufficient antecedent basis for this limitation in the claim. Claim 11 has been examined as best understood.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1, 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by (EP0855477).

16. Regarding claim 1, EP0855477 discloses as system of panels (Fig. 1-6) for suspended ceilings or the like comprising one row of panels (2, Fig. 1), a suspension and guide system (1) for the panels where the suspension and guide system is adapted for suspension and guiding of the panel in such a manner that at least some of the panels of a given row can be moved from a first level to a second level, in which latter level the panels can be displaced along panels situated at the first level, thereby providing access through the system of panel, characterized in that the suspension and guide system comprises holder means (37) located at predetermined positions along the longitudinal extension of the rows for releasable engagement with mating means (31) provided on panels for holding the panels at fixed positions along the corresponding row, when the panel is located at the first of said levels, and that the suspension and guide system furthermore comprises rail means (36) for displaceable engagement with mating means (33) provided on the panels, such that the panels, when located at the second of the levels, can be displaced in the longitudinal direction along the rows (lines 24-35, Page 2 of the present application).

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17. Regarding claim 3, EP0855477 discloses adjacent rows of panels are substantially adjoining each other (Fig. 1).

18. Regarding claim 4, EP0855477 discloses the panels being located at a fixed position in the longitudinal direction of the corresponding row when located at a first level (Fig. 1).

19. Regarding claim 5, EP0855477 discloses a substantially rigid frame (28, 30) that is provided with the "holder means" (31) for releasable attainment of the panel to a suspension and guide system and displacement means (33) allowing displacement for the frame relative to "the system".

20. Regarding claim 6, EP0855477 discloses the holder means (31) being a pattern of protrusions provided on two opposing longitudinal edges of the frame (Fig. 4-5)

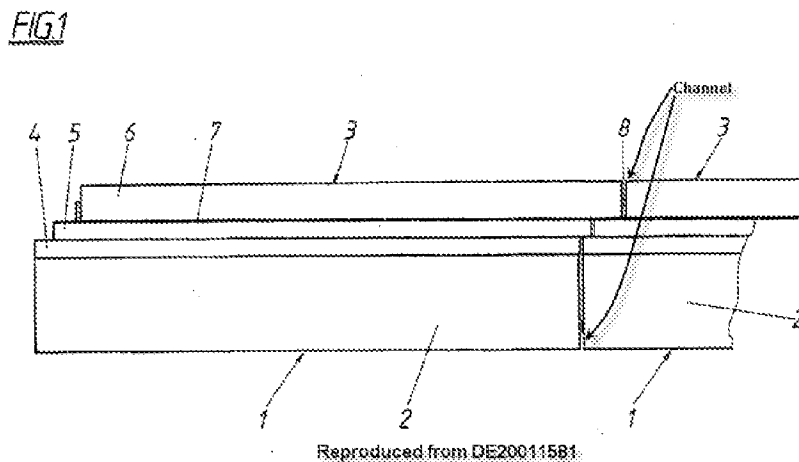
21. Claims 1- 9 are rejected under 35 U.S.C. 102(b) as being anticipated by (DE20011581).

22. Regarding claim 1, DE20011581 discloses as system of panels (Fig. 1-3) for suspended ceilings or the like comprising one row of panels (1), a suspension and guide system (9-16) for the panels where the suspension and guide system is adapted for suspension and guiding of the panel in such a manner that at least some of the panels of a given row can be moved from a first level to a second level, in which latter level the panels can be displaced along panels situated at the first level, thereby providing access through the system of panel, characterized in that the suspension and guide system comprises holder means (16, Fig. 3) located at predetermined positions

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along the longitudinal extension of the rows for releasable engagement with mating means (3) provided on panels for holding the panels at fixed positions along the corresponding row, when the panel is located at the first of said levels, and that the suspension and guide system furthermore comprises rail means (10, 11) for displaceable engagement with mating means (10) provided on the panels, such that the panels, when located at the second of the levels, can be displaced in the longitudinal direction along the rows. It has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138. The Examiner considers the panels of DE20011581 capable of moving from one level to the next during the installation process or any other intermediate steps. The space between the holder means (16) and the panel is considered sufficient to allow the panel to be moved from one level to the next in a given row.

23. Regarding claim 2, DE20011581 discloses an intermediate channel provided between adjacent rows of panels (“Channel”; approximate 8, Fig. 1).



24. Regarding claim 3, DE20011581 discloses adjacent rows of panels are substantially adjoining each other (Fig. 1).
25. Regarding claim 4, DE20011581 discloses the panels being located at a fixed position in the longitudinal direction of the corresponding row when located at a first level (Fig. 1-2).
26. Regarding claim 5, DE20011581 discloses a substantially rigid frame (4-6) that is provided with "holder means" (considered to be a shaft that would obviously be connected to the displacement means) for releasable attainment of the panel to a suspension and guide system and displacement means (18) allowing displacement for the frame relative to the system.
27. Regarding claim 6, DE20011581 discloses the holder means ("shaft") being a pattern of protrusions provided on two opposing longitudinal edges of the frame (4-6)

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28. Regarding claim 7, DE20011581 discloses the holder means (6) being provided by end portions of laterally extending beams (15, Fig. 3) connecting two opposing longitudinal edges of the frame.

29. Regarding claim 8, DE20011581 discloses the displacement means (18) being rail wheels attached to the lateral portions of the frame.

30. Regarding claim 9, DE20011581 discloses the frame (5) defining a region which is covered by a material (7) thus forming the main portion of the surface of the panel.

Claim Rejections - 35 USC § 103

31. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

32. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

33. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over (DE20011581).

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34. Regarding claim 10, DE20011581 discloses a material (7) that is flexible (Translation), but does not disclose the flexible material as being a sheet of glass fiber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a material that consisted of a sheet of glass fiber, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. It would have been just as suitable to replace one known material that had flexible properties used in the same application as another without producing a new or unpredictable results.

35. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over (DE20011581) in view of Von Arx et al. (U.S. Patent No. 6,722,096).

36. Regarding claim 11, DE20011581 discloses a panel having a layer of material (7) disposed over the panel, but does not disclose more than one layer. However, Von Arx et al. (Fig. 3) teaches that it is known to have a panel (14) having a first layer (48) and another layer (76) disposed upon that layer to help reinforce the panel. It would have been obvious to one having ordinary skill in the art to have modified the panel disclosed by DE20011581 with the multiple layers as taught by Von Arx to help protect and reinforce the panel.

37. Regarding claim 12, DE20011581 discloses the panel having corners but does not disclose the corners comprising of corner portions (approximate 4, Fig. 1) for releasable attachment to the lateral portions and end portions of the frame (4, 5).

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However Von Arx et al. teaches that it is known to have a panel the comprising of a frame with corner portions (22, Fig. 2) for releasable attachment to the remaining frame. It would have been obvious to one having ordinary skill in the art to have modified the frame of the panel by DE20011581 to have corner portions as another method of attaching and assembling a frame around a panel.

Allowable Subject Matter

38. Claims 13-22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

40. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Art Unit 3633

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